

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
	:	
SHARON K. VAN WINKLE,	:	
	:	LS07062811REB
RESPONDENT.	:	

Division of Enforcement Case No. 05 REB 137

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Sharon K. Van Winkle
1422 East Racine Avenue, #32
Waukesha, WI 53151

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Real Estate Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Real Estate Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Sharon K. Van Winkle ("Van Winkle"), whose date of birth is September 16, 1953, is duly licensed as a Real Estate Salesperson in the state of Wisconsin (94-59863). Ms. Van Winkle's most recent address of record on file with the Department of Regulation and Licensing ("Department") is 1422 East Racine Avenue, #32, Waukesha, WI 53151. The license was first granted on March 30, 2004, and is due to expire on December 14, 2008.

2. In January of 2005 Ms. Van Winkle acted as the listing agent on behalf of the Mike Roth Team, LLC of Shorewest Realty for real estate located at W253S4231 Leslie Lane, Waukesha, WI. An offer to purchase the property was accepted on January 5, 2005.

3. On January 14, 2005, Ms. Van Winkle learned that there was some amount of water in the basement of the property. Subsequently, the buyers noted that the carpet of the property had been removed, and that the basement floor had been freshly painted. Ms. Van Winkle asserts that she verbally informed the buyers that there had been water in the basement. Ms. Van Winkle does not assert that she so informed the buyers in writing.

4. Per Wis. Stat. § 452.14(3)(i), a licensee is subject to discipline if he or she has, "Demonstrated incompetency to act as a ... salesperson... in a manner which safeguards the interests of the public."

5. Per Wis. Admin. Code § RL 24.01(3), "If a licensee violates rules in this chapter, the licensee has demonstrated incompetency to act as a... salesperson... in such manner as to safeguard the interests of the public under s. 452.14(3)(i), Stats."

6. Per Wis. Admin. Code § RL 24.07(2), "A licensee, when engaging in real estate practice, shall disclose to each party, in writing and in a timely fashion, all material adverse facts that the licensee knows and that the party does not know or cannot discover through reasonably vigilant observation..."

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.

2. The Wisconsin Real Estate Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

3. By failing to inform the buyer, in writing, that the property being sold had a build-up of water in the basement, Respondent has demonstrated incompetency to act as a salesperson in a manner which safeguards the interests of the public, thereby subjecting herself to discipline per Wis. Stat. § 452.14(3)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of **SHARON K. VAN WINKLE** (#94-59863) to practice as a real estate salesperson in the State of Wisconsin and shall be, and hereby is, **REPRIMANDED**.
2. Respondent shall pay the costs of the Division of Enforcement in investigating this matter, in the amount of \$450.00 within ninety (90) days of the date of signing of this Order.
3. Respondent successfully complete no less than seven (7) classroom hours of education, the subjects of which shall include disclosure duties, as remedial education, which may not be counted towards Respondent's continuing education requirements, if any. Proof of successful completion of remedial education shall be submitted to the Department Monitor within ninety (90) days of the date of signing of this Order.
4. All payments and submissions required by this Order shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.

P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 261-7904

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license (#94-59863). The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit any payment as set forth above (if any), or fails to timely submit proof of completion of education as set forth above (if any), the Respondent's license (#94-59863) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order, and with the suspension called for in this Order not to begin until the other terms of the Order have been complied with.
6. This Order is effective on the date of signing.

WISCONSIN REAL ESTATE BOARD

By: Peter A. Sveum
A Member of the Board

6/28/07
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
SHARON K. VAN WINKLE,	:	
	:	
	:	LS# _____
RESPONDENT.	:	

Division of Enforcement Case No. 05 REB 137

It is hereby stipulated between Sharon K. Van Winkle, Respondent; and Mark A. Herman, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (Case No. 05 REB 137). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided with the opportunity to obtain the advice of legal counsel prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Real Estate Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading,

appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or her attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

_____ Sharon K. Van Winkle , Respondent 1422 East Racine Avenue, # 32 Waukesha, WI 53151	Date _____
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_____ Mark A. Herman, Attorney Division of Enforcement	Date _____
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